IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

WP(C).No. 1608 of 2007(N)

PETITIONER:

M/S. SUEERAA ALLOYS (P) LTD.,
BUILDING NO.5/980 A, NALLEPULLY PANCHAYATH,
NATTUKAL P.O., PALAKKAD, REPRESENTED BY
ITS MANAGING DIRECTOR, ;R.ELANGOVAN.

BY ADV. SRI.K.I.MAYANKUTTY MATHER
SMT.S.LAKSHMY

RESPONDENTS:

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1. COMMISSIONER,
COMMERCIAL TAXES, THIRUVANANTHAPURAM.

2. INTELLIGENCE OFFICER,
SQUAD NO.I, OFFICE OF THE INSPECTING ASSISTANT
COMMISSIONER (INTELLIGENCE),
COMMERCIAL TAXES, KOTTAYAM.

3. ASSISTANT COMMISSIONER (KVAT),
SPECIAL CIRCLE, PALAKKAD.

BY G.P. SRI.MOHAMMED RAFFIQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/06/2007, ALONG WITH WPC NO. 984 OF 2007 & WPC NO. 1641 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE MAHAZAR DRAWN BY THE INTELLIGENCE OFFICER.

P2: TRUE COPY OF SL. NO.2 SRO 318/2005 DT.31.3.2005.

P3: TRUE COPY OF ORDER PASSED BY R1 DT.1.4.2005.

P4: TRUE COPY OF SUMMONS ISSUED BY R2 TO 1ST PETITIONER DT.8.12.2006.

P5: TRUE COPY OF NOTICE ISSUED BY R2 TO PETITIONER DT.19.12.2006.

P6: TRUE COPY OF PROCEEDINGS OF R2 IN RESPECT OF THE PETITIONER DT.20.3.2007.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) Nos.1608, 1641 & 984 of 2007

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Dated this the 13th day of June, 2007.

JUDGMENT

Heard counsel for the petitioners and Government Pleader. The petitioners are manufacturers and traders of iron and steel who have been subjected to search by the Commercial Tax Department. The petitioners are located at Ernakulam, Palakkad and Kozhikode Districts. The grievance of the petitioners is that the Commissioner of Commercial Taxes has constituted a Special Team to investigate and adjudicate the case vide proceedings dated 20.11.2006 which is against the assignment of work to departmental officers areawise. According to petitioners, the Commissioner has no jurisdiction to appoint officers from other stations to conduct enquiry and to adjudicate the cases against the petitioners. Government Pleader produced copy of the order dated 20.11.2006 and contended that orders issued by the Commissioner are well within his powers under Section 3(3) of the Kerala Value Added Tax Act. However, I do not think this issue calls for decision of this court because petitioners are willing to give up their challenge against appointment of officers from other stations provided hearing is held in their area. Government Pleader

submitted that instructions have been issued to the officers specifically named to hold sittings in the District Headquarters of the area where the petitioners are located. Since the Commissioner has instructed the officers to hold sittings at the District Headquarters wherein the petitioners are located, such officers are free to proceed with the enquiry and adjudication as petitioners have given up challenge against their appointment. So far as appeals are concerned, there will be direction to the Commissioner to order posting and hearing of the cases at the same centres, whoever be the appellate or revisional authority nominated by him to hear the matter. The petitioners have expressed apprehension that adjudication will be completed in haste without giving them copies of documents relied on by the department. Further the petitioners have raised apprehension that books of accounts and other records seized are being retained beyond the period provided under Section 44(5) of the Act. However, it is seen that on account of filing of these writ petitions, the matter has been already dragged for six months. I do not think there is any advance ruling required in these matters. The officers are required to comply with the statutory provisions and if petitioners have grievance, it is open to them to challenge such action.

The W.Ps. are disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms